

E-Filed 3/16/09

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

MICHAEL J. YANCEY,

Petitioner,

v.

JEANNE S. WOODFORD, et al.,

Respondents.

Case Number C 05-1028 JF

ORDER DENYING CERTIFICATE
OF APPEALABILITY

On April 21, 2008, Petitioner filed a notice of appeal from this Court's judgment. Petitioner did not file a motion for a certificate of appealability. The record was transmitted to the Court of Appeals. On September 29, 2008, the Court of Appeals remanded the case to this Court for the limited purpose of granting or denying a certificate of appealability.

"Where a district court has rejected the constitutional claims on the merits, the showing required to satisfy § 2253(c) is straightforward: The petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). The Court denied the instant habeas petition after careful consideration of the merits. The Court found no violation of Petitioner's federal constitutional rights in the underlying state court proceedings. Petitioner has failed to demonstrate that jurists of reason would find it debatable whether

1 this Court was correct in its ruling. Accordingly, a certificate of appealability is DENIED
2 in this case.

3 The clerk shall forward to the Ninth Circuit Court of Appeals the case file with this
4 order. *See* Fed. R. App. P. 22(b).

5 IT IS SO ORDERED.

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12 DATED: 3/16/09

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15 JEREMY FOGEL
United States District Judge
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Copies of Order served on:

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